

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

These proposed amendments will allow home- and community-based services (HCBS) waiver service members who are inpatients in a hospital or medical institution for 31 to 120 days to resume waiver services upon discharge without having to reapply and go back on the waiver wait list. Currently, if a member is an inpatient for more than 30 days, the HCBS waiver is canceled and the member must reapply and be placed on the waiver wait list. This often results in a gap in services between the member’s discharge from the facility and the resumption of waiver services once the application has been processed. This also results in nonpayment issues for providers who will also resume services following a member’s inpatient stay only to discover that the member is no longer eligible for HCBS waiver services and that the member must reapply for the waiver.

Any interested person may make written comments on the proposed amendments on or before June 13, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend paragraph **83.3(4)“d”** as follows:

d. Eligibility continues until the member has been in a medical institution for 30 120 consecutive days for other than respite care. Members who are inpatients in a medical institution for 30 120 or more consecutive days for other than respite care shall be terminated from health and disability waiver services and reviewed for eligibility for other Medicaid coverage groups. The member will be notified of that decision through Form 470-0602, Notice of Decision. If the member returns home before the effective date of the notice of decision and the member’s condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 2. Amend paragraph **83.8(2)“c”** as follows:

c. The member receives care in a hospital, nursing facility, or intermediate care facility for persons with an intellectual disability for 30 120 days in any one stay for purposes other than respite care.

ITEM 3. Amend paragraph **83.23(4)“c”** as follows:

c. Eligibility continues until the consumer has been in a medical institution for 30 120 consecutive days for other than respite care or fails to meet eligibility criteria listed in rule 441—83.22(249A). Consumers who are inpatients in a medical institution for 30 120 or more consecutive days for other than respite care shall be terminated from elderly waiver services and reviewed for eligibility for other Medicaid coverage groups. The consumer will be notified of that decision through Form 470-0602, Notice of Decision. If the consumer returns home before the effective date of the notice of decision and

the consumer's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 4. Amend paragraph **83.28(2)“c”** as follows:

c. The client receives care in a hospital or nursing facility for ~~30~~ 120 days in any one stay for purposes other than respite care.

ITEM 5. Amend paragraph **83.43(4)“c”** as follows:

c. Eligibility for the waiver continues until the recipient has been in a medical institution for ~~30~~ 120 consecutive days for other than respite care or fails to meet eligibility criteria listed in rule 441—83.42(249A). Recipients who are inpatients in a medical institution for ~~30~~ 120 or more consecutive days for other than respite care shall be reviewed for eligibility for other Medicaid coverage groups and terminated from AIDS/HIV waiver services if found eligible under another coverage group. The recipient will be notified of that decision through Form 470-0602, Notice of Decision. If the consumer returns home before the effective date of the notice of decision and the person's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 6. Amend paragraph **83.48(2)“c”** as follows:

c. The client receives care in a hospital or nursing facility for ~~30~~ 120 days or more in any one stay for purposes other than respite care.

ITEM 7. Amend paragraph **83.62(4)“d”** as follows:

d. Eligibility continues until the consumer fails to meet eligibility criteria listed in rule 441—83.61(249A). Consumers who are inpatients in a medical institution for ~~30~~ 120 consecutive days shall receive a review by the interdisciplinary team to determine additional inpatient needs for possible termination from the HCBS program. Consumers shall be reviewed for eligibility under other Medicaid coverage groups. The consumer or legal representative shall participate in the review and receive formal notification of that decision through Form 470-0602, Notice of Decision.

If the consumer returns home before the effective date of the notice of decision and the consumer's needs can still be met by the HCBS waiver services, the denial may be rescinded and eligibility may continue.

ITEM 8. Amend paragraph **83.83(3)“c”** as follows:

c. Eligibility for the waiver continues until the consumer fails to meet eligibility criteria listed in rule 441—83.82(249A). Consumers who return to inpatient status in a medical institution for more than ~~30~~ 120 consecutive days shall be reviewed by the IME medical services unit to determine additional inpatient needs for possible termination from the brain injury waiver. The consumer shall be reviewed for eligibility under other Medicaid coverage groups in accordance with rule 441—76.11(249A). The consumer shall be notified of that decision through Form 470-0602, Notice of Decision.

If the consumer returns home before the effective date of the notice of decision and the consumer's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 9. Amend paragraph **83.103(3)“c”** as follows:

c. Eligibility for the waiver continues until the consumer fails to meet eligibility criteria listed in subrule 83.102(1). Consumers who return to inpatient status in a medical institution for more than ~~30~~ 120 consecutive days shall be reviewed by the IME medical services unit to determine additional inpatient needs for possible termination from the physical disability waiver. The consumer shall be reviewed for eligibility under other Medicaid coverage groups in accordance with rule 441—76.11(249A). The consumer shall be notified of that decision through Form 470-0602, Notice of Decision.

If the consumer returns home before the effective date of the notice of decision and the consumer's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

ITEM 10. Amend paragraph **83.125(2)“b”** as follows:

b. The consumer is an inpatient of a medical institution for ~~30~~ 120 or more consecutive days.

(1) After the consumer has spent ~~30~~ 120 consecutive days in a medical institution, the local office shall terminate the consumer's waiver eligibility and review the consumer for eligibility under other

Medicaid coverage groups. The local office shall notify the consumer and the consumer's parents or legal guardian through Form 470-0602, Notice of Decision.

(2) If the consumer returns home after ~~30~~ 120 consecutive days ~~but no more than 60 days~~, the consumer must reapply for children's mental health waiver services, and the IME medical services unit must redetermine the consumer's level of care.

ITEM 11. Amend paragraph **83.128(2)"c"** as follows:

c. The consumer receives care in a hospital, nursing facility, psychiatric hospital serving children under the age of 21, or psychiatric medical institution for children for ~~30~~ 120 days in any one stay.